



**DEPARTMENT OF AGRICULTURE**

**Food Safety and Inspection Service**

**[Docket No. FSIS-2022-0033]**

**2023 Rate Changes for the Basetime, Overtime, Holiday,  
Laboratory Services, and Export Application Fees**

**AGENCY:** Food Safety and Inspection Service (FSIS), Department of Agriculture (USDA).

**ACTION:** Notice.

**SUMMARY:** FSIS is announcing the 2023 rates it will charge meat and poultry establishments, egg products plants, and importers and exporters for providing voluntary, overtime, and holiday inspection and identification, certification, and laboratory services. Additionally, FSIS is announcing that there will be no changes to the fee FSIS assesses to exporters that choose to apply for export certificates electronically through the export component of the Agency's Public Health Information System. The 2023 basetime, overtime, holiday, and laboratory services rates will be applied on January 1, 2023.

**DATES:** FSIS will charge the rates announced in this notice beginning January 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Michael Toner, Director, Budget Division, Office of the Chief Financial Officer, FSIS, U.S. Department of Agriculture, Room 2159, South Building, 1400 Independence Avenue S.W., Washington, DC 20250-3700; Telephone: (202) 690-8398, Fax: (202) 690-4155.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On April 12, 2011, FSIS published a final rule amending its regulations to establish formulas for calculating the rates it charges meat and poultry establishments, egg products plants, and importers and exporters for providing voluntary, overtime, and holiday inspection and identification, certification, and laboratory services (76 FR 20220).

In the final rule, FSIS stated that it would use the formulas to calculate the annual rates, publish the rates in **Federal Register** notices prior to the start of each calendar year, and apply the rates on the first FSIS pay period at the beginning of the calendar year. This notice provides the 2023 rates, which will be applied starting on January 1, 2023.

On September 6, 2017, FSIS published a **Federal Register** notice, "Public Health Information System (PHIS) Export Component Country Implementation" (FR 82 42056). The notice announced the delayed implementation of the export component to ensure sufficient testing and outreach to stakeholders and that the application fee would be recalculated based on available costs and number of applications but would not be assessed prior to January 1, 2019. In addition, FSIS announced that it would implement the PHIS Export Component with a limited number of countries and gradually expand implementation to additional countries.

On April 29, 2019, FSIS published a **Federal Register** notice, "Public Health Information System Export Component Fee" (84 FR 17999). The notice announced that starting June 1, 2019, FSIS would assess a fee of \$4.01 to exporters that chose to apply for export certificates electronically through the export component of PHIS. As noted below, that fee remains unchanged since 2019.

On July 15, 2021, FSIS published a **Federal Register** notice, "Overtime and Holiday Inspection Fee Reductions for Small and Very Small Establishments" (86 FR 37276). The notice explained that the American Rescue Plan Act provided FSIS with \$100 million in budget authority to reduce the costs of overtime inspection for small and very small official meat and poultry establishments and egg products plants. The notice also announced that FSIS implemented this provision by reducing overtime and holiday inspection fees for small establishments by 30 percent and very small establishments by 75 percent. More information on how to apply for the fee reduction is available at: <https://www.fsis.usda.gov/policy/federal-register-rulemaking/federal-register-notices/overtime-and-holiday-inspection-fee>.

### **2023 Rates and Calculations**

The following table lists the 2023 Rates per hour, per employee, by type of service:

Service	2023 Rate (estimates rounded to reflect billable quarter hour)
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Basetime	\$67.12
Overtime	\$82.80
Holiday	\$98.44
Laboratory	\$87.36
Export Application	\$4.01*

\* Per application

The regulations that cover these fees (other than the export application fee) state that FSIS will calculate the rates using formulas that include the Office of Field Operations (OFO) inspection program personnel's previous fiscal year's regular direct pay and regular hours (9 CFR 391.2, 391.3, 391.4, 590.126, 590.128, 592.510, 592.520, and 592.530). The final rates have been rounded to make the amount divisible by the quarter hour (15 minutes). Fifteen minutes is the minimum charge for the services covered by these rates.

FSIS determined the 2023 rates using the following calculations:

*Basetime Rate* = The quotient of dividing the Office of Field Operations (OFO) inspection program personnel's previous fiscal year's regular direct pay by the previous fiscal year's regular hours, plus the quotient multiplied by the calendar year's percentage of cost-of-living increase, plus the benefits rate, plus the travel and operating rate, plus the overhead rate, plus the allowance for bad debt rate.

The calculation for the 2023 basetime rate per hour per program employee is:

[FY 2022 OFO Regular Direct Pay divided by the previous fiscal year's Regular Hours (\$462,882,117/15,449,262)] = \$29.96+ (\$29.96\* 4.6% (calendar year 2023 Cost of Living Increase)) = \$31.34 + \$11.59 (benefits rate) + \$2.48 (travel and operating rate) + \$21.71(overhead rate) + \$0.00 (bad debt allowance rate) = \$67.12, which is divisible by 4.

*Overtime Rate* = The quotient of dividing the Office of Field Operations (OFO) inspection program personnel's previous fiscal year's regular direct pay by the previous fiscal year's regular hours, plus that quotient multiplied by the calendar year's percentage of cost-of-living increase, multiplied by 1.5 (for overtime), plus the benefits rate, plus the travel and operating rate, plus the overhead rate, plus the allowance for bad debt rate.

The calculation for the 2023 overtime rate per hour per program employee is:

[FY 2022 OFO Regular Direct Pay divided by previous fiscal year's Regular Hours (\$462,882,117 /15,449,262)] = \$29.96 + (\$29.96 \* 4.6% (calendar year 2022 Cost of Living Increase)) = \$31.34 \* 1.5 = \$47.01+ \$11.59 (benefits rate) + \$2.48 (travel and operating rate) + \$21.71(overhead rate) + \$0.00(bad debt allowance rate) = \$82.80, which is divisible by 4.

*Holiday Rate* = The quotient of dividing the Office of Field Operations (OFO) inspection program personnel's previous fiscal year's regular direct pay by the previous fiscal year's regular hours, plus that quotient multiplied by the calendar year's

percentage of cost-of-living increase, multiplied by 2 (for holiday pay), plus the benefits rate, plus the travel and operating rate, plus the overhead rate, plus the allowance for bad debt rate.

The calculation for the 2023 holiday rate per hour per program employee calculation is:

[FY 2022 OFO Regular Direct Pay divided by Regular Hours (\$462,882,117/15,449,262)] = \$29.96 + (\$29.96 \* 4.6% (calendar year 2022 Cost of Living Increase)) = \$31.34\* 2 = \$62.68+ \$11.59(benefits rate) + \$2.48 (travel and operating rate) + \$21.71 (overhead rate) + \$0.00 (bad debt allowance rate) = \$98.46, rounded down to 98.44, so that it is divisible by 4.

*Laboratory Services Rate* = The quotient of dividing the Office of Public Health Science (OPHS) previous fiscal year's regular direct pay by the OPHS previous fiscal year's regular hours, plus the quotient multiplied by the calendar year's percentage cost of living increase, plus the benefits rate, plus the travel and operating rate, plus the overhead rate, plus the allowance for bad debt rate.

The calculation for the 2023 laboratory services rate per hour per program employee is:

[FY 2022 OPHS Regular Direct Pay/OPHS Regular hours (\$27,499,214/557,759)] = \$49.30 + (\$49.30 \* 4.6% (calendar year 2022 Cost of Living Increase)) = \$51.57+ \$11.59 (benefits rate) + \$2.48 (travel and operating rate) + \$21.71 (overhead rate) +

\$0.00 (bad debt allowance rate) = \$87.35, rounded up to 85.36, so that it is divisible by 4.

### **Calculations for the Benefits, Travel and Operating, Overhead, and Allowance for Bad Debt Rates**

These rates are components of the basetime, overtime, holiday, and laboratory services rates formulas.

*Benefits Rate:* The quotient of dividing the previous fiscal year's direct benefits costs by the previous fiscal year's total hours (regular, overtime, and holiday), plus that quotient multiplied by the calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan basic and matching contributions.

The calculation for the 2023 benefits rate per hour per program employee is:

[FY 2022 Direct Benefits / (Total Regular hours + Total Overtime hours + Total Holiday hours) (\$212,068,102/19,142,899)] = \$11.08 + (\$11.08\* 4.6% (calendar year 2022 Cost of Living Increase)) = \$11.59.

*Travel and Operating Rate:* The quotient of dividing the previous fiscal year's total direct travel and operating costs by the previous fiscal year's total hours (regular, overtime, and holiday), plus that quotient multiplied by the calendar year's percentage of inflation.

The calculation for the 2023 travel and operating rate per hour per program employee is:

[FY 2022 Total Direct Travel and Operating Costs/ (Total Regular hours + Total Overtime hours + Total Holiday hours) (\$46,365,745/19,142,899)] = \$2.48 + (\$2.48 \* 2.3% (2023 Inflation) = \$2.48.

*Overhead Rate:* The quotient of dividing the previous fiscal year's indirect costs plus the previous fiscal year's information technology (IT) costs in the Public Health Data Communication Infrastructure System Fund plus the provision for the operating balance less any Greenbook costs (i.e., costs of USDA support services prorated to the service component for which fees are charged) that are not related to food inspection by the previous fiscal year's total hours (regular, overtime, and holiday) worked across all funds, plus the quotient multiplied by the calendar year's percentage of inflation.

The calculation for the 2023 overhead rate per hour per program employee is:

[FY 2022 Total Overhead / (Total Regular hours + Total Overtime hours + Total Holiday hours) (\$ 406,272,208/19,142,899)] = \$21.22 + (\$21.22 \* 2.3% (2021 Inflation) = \$21.71.

*Allowance for Bad Debt Rate* = Previous fiscal year's total allowance for bad debt (for example, debt owed for overtime and holiday inspection services that is not paid in full by plants and establishments that declare bankruptcy) divided by previous fiscal year's total hours (regular, overtime, and holiday) worked.



The 2023 calculation for bad debt rate per hour per program employee is:

[FY 2022 Total Bad Debt / (Total Regular hours + Total Overtime hours + Total Holiday hours) = (\$69,944/19,142,899)] = \$0.00.

### **2023 Electronic Export Application Fee**

The 2023 Electronic Export Application Fee:

Labor Cost (\$560,901.60+ (\$337,369))+ IT Cost (\$1,414,285.60+\$0)

576,192

**= \$4.01**

As published in FSIS' final rule, *Electronic Export Application and Certification Charge; Flexibility in the Requirements for Export Inspection Marks, Devices, and Certificates; Egg Products Export Certification* (81 FR 42225), the Electronic Export Application Fee Formula is:

Labor Cost (Technical Support + Export Library Maintenance) + IT Cost (Ongoing Operations and Maintenance + eAuthentication)

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Number of Export Applications

FSIS stated in the 2016 final rule (81 FR 42225) and the 2017 **Federal Register** notice (FR 82 42056) that it would update and recalculate the fee based on the best available estimates for costs and number of applications; however, the number of export applications (the denominator in the formula) cannot be accurately assessed until a majority of countries are included

in the export component. Therefore, because a majority of countries are not yet included in the PHIS Export component, the cost estimates and projected export applications in the final rule remain the best estimate for 2023, leaving the electronic export application fee unchanged.

#### **Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS Web page located at: <https://www.fsis.usda.gov/federal-register>. FSIS also will make copies of this publication available through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS Web page. Through the Web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <https://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.ocio.usda.gov/document/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of

the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or

(2) Fax: (833) 256-1665 or (202) 690-7442; or

(3) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

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Done at Washington, DC.

**Paul Kiecker,**

*Administrator.*